



DSC/JB
PATENT
ATTORNEY DOCKET NO. 50111/002002

Certificate of Mailing: Date of Deposit: July 10, 2006

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kathy Kirby

Printed name of person mailing correspondence

Kathy Kirby

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Neil R. Cashman et al.	Art Unit:	1648
Patent No.:	7,041,807	Issued:	May 9, 2006
Serial No.:	09/602,775	Examiner:	Ulrike Winkler
Filed	June 23, 2000	Customer No.:	21559
Title:	ANTIBODIES TO A YYX EPITOPE OF A MAMMALIAN PRION PROTEIN		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705

In response to the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) set forth in the Issue Notification mailed in connection with the above-captioned patent application on April 19, 2006, and as set forth on the cover of U.S. Patent No. 7,041,807, issued May 9, 2006, Applicants hereby request reconsideration of the patent term adjustment. Applicants submit that the current patent term adjustment should be 404 days, not 342 days as shown in the Patent Term Adjustment History on the PAIR system (Exhibit 1).

On December 7, 2005, the Office mailed a Notice of Allowance together with a Determination of Patent Term Adjustment stating that the patent term adjustment to date was 298 days. Applicants do not dispute this calculation. The Office subsequently recalculated the patent term adjustment by including an additional Office delay of 108 days and an additional Applicant delay of 64 days. Applicants agree with the additional Office delay of 108 days, which stems from the fact that the Office took 108 days longer than the three years from the actual filing date of the application allotted under 37 C.F.R. § 1.702(b) to issue the patent, not including any time consumed by continued examination of the application under 35 U.S.C. § 132 (b), as was filed in the present case on February 22, 2005. Applicants also agree with the additional 2 days of Applicant delay, which stems from the receipt of the Issue Fee Payment by the Office on March 9, 2006, a total of three months and 2 days after the mailing date of the Notice of Allowance and Fees Due. (Applicants note that the Issue Fee Payment was mailed on March 6, 2006.) However, Applicants disagree with the Office's determination of 62 days of additional Applicant delay.

According to the Office's records, as shown in Exhibit 1, the issue fee payment was received by the Office on March 9, 2006, which is within the three-month time period for reply to the Notice of Allowance mailed on December 7, 2005. Furthermore, Applicants met all requirements for issuance of the patent on March 9, 2006 and did not file any subsequent papers that could conceivably be the basis of a further patent term adjustment. The document listed as "Miscellaneous Incoming Letter" on the Patent Term

Adjustment History shown in Exhibit 1 is also listed as “Miscellaneous Incoming Letter” on the Patent Application Information Retrieval (PAIR) Image File Wrapper for the present application (enclosed as Exhibit 2). This appears to be the document from which the Applicant delay of 62 days is calculated. Applicants have downloaded the document from the PAIR site and found that it corresponds to the Reply to Notice of Allowance that was filed on March 6, 2006, along with the completed fee transmittal and the check in payment of the issue fee. A copy of the document, as downloaded from the PAIR site, is enclosed as Exhibit 3. The Reply to Notice of Allowance was filed within the allowed three-month time period and should not be construed as an additional paper that would be the basis of a further patent term adjustment.

Applicants note that, following the Notice of Allowance, there were no other papers filed by Applicants and no circumstances constituting a failure by Applicants to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704. Therefore, Applicants submit that it is improper to attribute an additional 62 days of delay to Applicants.

In view of the above facts, this application is currently entitled to 404 days of patent term adjustment. The proper patent term adjustment is 778 days for Office delay reduced by 374 days for Applicants’ delay, or 404 days.

The present patent is not subject to a Terminal Disclaimer.

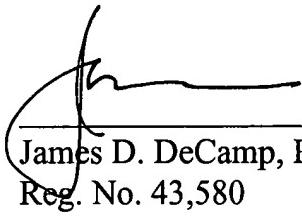
CONCLUSION

Applicants submit that the current patent term adjustment should be 404 days and hereby request reconsideration of the patent term adjustment.

Enclosed is a check in the amount of \$200.00 for the fee set forth in 37 C.F.R. § 1.18(e). If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

If there are any other charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,



James D. DeCamp, Ph.D.
Reg. No. 43,580

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Exhibit 1

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/602,775

Filing or 371(c) Date:	06-23-2000	USPTO Delay (PTO) Delay (days):	778
Issue Date of Patent:	05-09-2006	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	436
Post-Issue Petitions (days):	+0	Total PTA (days):	342
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
04-19-2006	PTA 36 Months	108	
05-09-2006	Patent Issue Date Used in PTA Calculation		
03-20-2006	Dispatch to FDC		↑
03-09-2006	Miscellaneous Incoming Letter		62
03-16-2006	Application Is Considered Ready for Issue		↑
03-09-2006	Issue Fee Payment Verified		2
03-09-2006	Issue Fee Payment Received		↑
03-01-2006	Mail Miscellaneous Communication to Applicant		↑
02-27-2006	Miscellaneous Communication to Applicant - No Action Count		↑
12-22-2005	Sequence Forwarded to Pubs on Tape		↑
12-07-2005	Mail Notice of Allowance	166	
12-01-2005	Notice of Allowance Data Verification Completed		↑
02-24-2005	Information Disclosure Statement considered		↑
09-22-2005	Request for Refund		↑
02-24-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		↑
02-24-2005	Reference capture on IDS		↑
02-24-2005	Information Disclosure Statement (IDS) Filed		↑
10-14-2005	Date Forwarded to Examiner		↑
02-24-2005	Request for Continued Examination (RCE)		↑
10-14-2005	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		
02-24-2005	Request for Extension of Time - Granted		
04-11-2005	Information Disclosure Statement (IDS) Filed		46
02-24-2005	Workflow - Request for RCE - Begin		
09-21-2004	Mail Advisory Action (PTOL - 303)		
09-17-2004	Advisory Action (PTOL-303)		
09-13-2004	Petition Decision - Granted		
08-04-2004	Date Forwarded to Examiner		
07-22-2004	Amendment/Argument after Notice of Appeal		
07-22-2004	Notice of Appeal Filed		93
07-22-2004	Request for Extension of Time - Granted		↑
07-22-2004	Petition Entered		↑

07-22-2004	Workflow incoming petition IFW	↑
05-27-2004	IFW TSS Processing by Tech Center Complete	↑
05-20-2004	Information Disclosure Statement (IDS) Filed	↑
01-20-2004	Mail Final Rejection (PTOL - 326)	↑
01-12-2004	Final Rejection	
10-10-2002	New or Additional Drawing Filed	
10-10-2003	Information Disclosure Statement (IDS) Filed	
10-29-2003	Date Forwarded to Examiner	
10-10-2003	Response after Non-Final Action	93
10-10-2003	Request for Extension of Time - Granted	↑
04-09-2003	Mail Non-Final Rejection	↑
04-07-2003	Non-Final Rejection	
02-10-2003	Information Disclosure Statement (IDS) Filed	
02-20-2003	Date Forwarded to Examiner	
02-10-2003	Response to Election / Restriction Filed	
01-09-2003	Mail Restriction Requirement	504
01-08-2003	Requirement for Restriction / Election	↑
11-03-2002	Case Docketed to Examiner in GAU	↑
05-07-2002	CRF Is Good Technically / Entered into Database	↑
05-02-2002	Date Forwarded to Examiner	↑
04-16-2002	Response to a Letter to Comply with the Sequence Rules	82
03-12-2002	Mail Incomplete Response to Sequence Rule Request	↑
03-11-2002	Incomplete Response to Sequence Rule Request	↑
02-28-2002	Date Forwarded to Examiner	↑
01-24-2002	Response to a Letter to Comply with the Sequence Rules	58
01-24-2002	Request for Extension of Time - Granted	↑
02-19-2002	CRF Does Not Match Application Specification -- Applicant Must Correct	↑
08-27-2001	Mail Letter Requiring CRF (Unreadable, Non-Compliant, Not Submitted)	↑
08-27-2001	CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted	
03-21-2001	Case Docketed to Examiner in GAU	
01-08-2001	Information Disclosure Statement (IDS) Filed	
01-05-2001	Case Docketed to Examiner in GAU	
11-27-2000	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27	
11-27-2000	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
12-05-2000	Application Dispatched from OIPE	
12-05-2000	Application Is Now Complete	
08-21-2000	Notice Mailed--Application Incomplete--Filing Date Assigned	
08-18-2000	Correspondence Address Change	

07-24-2000 IFW Scan & PACR Auto Security Review
07-18-2000 CRF Is Good Technically / Entered into Database
06-23-2000 CRF Is Good Technically / Entered into Database
06-23-2000 Initial Exam Team nn

Close Window

Exhibit 2



This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

Available Documents

Mail Room Date	Document Description	Document Category	Page Count
03-09-2006	Issue Fee Payment Recorded	PROSECUTION	1
03-09-2006	Miscellaneous Incoming Letter	PROSECUTION	2
03-07-2006	Bibliographic Data Sheet	PROSECUTION	1
03-01-2006	Miscellaneous Action with SSP	PROSECUTION	2
03-01-2006	List of References cited by applicant and considered by examiner	PROSECUTION	1
12-07-2005	Notice of Allowance and Fees Due (PTOL-85)	PROSECUTION	3
12-07-2005	Notice of Allowance and Fees Due (PTOL-85)	PROSECUTION	3
12-07-2005	List of References cited by applicant and considered by examiner	PROSECUTION	7
12-07-2005	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1
12-07-2005	Index of Claims	PROSECUTION	1
12-07-2005	Bibliographic Data Sheet	PROSECUTION	1
12-07-2005	Search information including classification, databases and other search related notes	PROSECUTION	1
11-02-2005	Fee Worksheet (PTO-875)	PROSECUTION	3
04-11-2005	Information Disclosure Statement (IDS) Filed	PROSECUTION	5
04-11-2005	NPL Documents	PRIOR ART	4
04-11-2005	NPL Documents	PRIOR ART	13
04-11-2005	NPL Documents	PRIOR ART	6
04-11-2005	NPL Documents	PRIOR ART	1
04-11-2005	NPL Documents	PRIOR ART	7
04-11-2005	NPL Documents	PRIOR ART	11
04-11-2005	NPL Documents	PRIOR ART	14
04-11-2005	NPL Documents	PRIOR ART	11
04-11-2005	NPL Documents	PRIOR ART	11
04-11-2005	NPL Documents	PRIOR ART	11
04-11-2005	NPL Documents	PRIOR ART	11
04-11-2005	NPL Documents	PRIOR ART	11
04-11-2005	NPL Documents	PRIOR ART	4
04-11-2005	NPL Documents	PRIOR ART	5
04-11-2005	NPL Documents	PRIOR ART	6
04-11-2005	NPL Documents	PRIOR ART	7
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04-11-2005	NPL Documents	PRIOR ART	1
04-11-2005	NPL Documents	PRIOR ART	9
04-11-2005	NPL Documents	PRIOR ART	5
04-11-2005	NPL Documents	PRIOR ART	9
04-11-2005	NPL Documents	PRIOR ART	5
04-11-2005	NPL Documents	PRIOR ART	12
04-11-2005	NPL Documents	PRIOR ART	5
04-11-2005	NPL Documents	PRIOR ART	13
04-11-2005	NPL Documents	PRIOR ART	8
04-11-2005	NPL Documents	PRIOR ART	14
04-11-2005	NPL Documents	PRIOR ART	18
04-11-2005	NPL Documents	PRIOR ART	6
04-11-2005	NPL Documents	PRIOR ART	6

Amendment After Final or under 37CFR 1.312, initialed

02-24-2005	by the examiner.	PROSECUTION	1
02-24-2005	Fee Worksheet (PTO-875)	PROSECUTION	1
02-24-2005	Claims Worksheet (PTO-2022)	PROSECUTION	1
02-24-2005	Foreign Reference	PRIOR ART	90
02-24-2005	Foreign Reference	PRIOR ART	80
02-24-2005	Foreign Reference	PRIOR ART	50
02-24-2005	NPL Documents	PRIOR ART	20
02-24-2005	NPL Documents	PRIOR ART	10
02-24-2005	NPL Documents	PRIOR ART	12
02-24-2005	NPL Documents	PRIOR ART	8
02-24-2005	NPL Documents	PRIOR ART	6
02-24-2005	NPL Documents	PRIOR ART	6
02-24-2005	NPL Documents	PRIOR ART	10
02-24-2005	NPL Documents	PRIOR ART	6
02-24-2005	NPL Documents	PRIOR ART	12
02-24-2005	NPL Documents	PRIOR ART	14
02-24-2005	NPL Documents	PRIOR ART	4
02-24-2005	NPL Documents	PRIOR ART	10
02-24-2005	NPL Documents	PRIOR ART	15
02-24-2005	NPL Documents	PRIOR ART	7
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02-24-2005	NPL Documents	PRIOR ART	9
02-24-2005	NPL Documents	PRIOR ART	7
02-24-2005	NPL Documents	PRIOR ART	2
02-24-2005	NPL Documents	PRIOR ART	2
02-24-2005	NPL Documents	PRIOR ART	3
02-24-2005	NPL Documents	PRIOR ART	8
02-24-2005	NPL Documents	PRIOR ART	9
02-24-2005	NPL Documents	PRIOR ART	9
02-24-2005	NPL Documents	PRIOR ART	10
02-24-2005	NPL Documents	PRIOR ART	34
02-24-2005	NPL Documents	PRIOR ART	112
02-24-2005	NPL Documents	PRIOR ART	3
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02-24-2005	NPL Documents	PRIOR ART	17
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02-24-2005	NPL Documents	PRIOR ART	7
02-24-2005	NPL Documents	PRIOR ART	6
02-24-2005	NPL Documents	PRIOR ART	13
02-24-2005	Request for Continued Examination (RCE)	PROSECUTION	3
02-24-2005	Amendment Submitted/Entered with Filing of CPA/RCE	PROSECUTION	3
02-24-2005	Claims	PROSECUTION	23
02-24-2005	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	15
02-24-2005	Extension of Time	PROSECUTION	2
02-24-2005	Authorization for Extension of Time all replies	PROSECUTION	2
02-24-2005	Information Disclosure Statement (IDS) Filed	PROSECUTION	7
02-24-2005	Foreign Reference	PRIOR ART	256
02-24-2005	Foreign Reference	PRIOR ART	2
02-24-2005	Foreign Reference	PRIOR ART	51
02-24-2005	Foreign Reference	PRIOR ART	53
02-24-2005	Foreign Reference	PRIOR ART	34
02-24-2005	Foreign Reference	PRIOR ART	29
02-24-2005	Foreign Reference	PRIOR ART	50
02-24-2005	Foreign Reference	PRIOR ART	39
02-24-2005	Foreign Reference	PRIOR ART	82
09-21-2004	Advisory Action (PTOL-303)	PROSECUTION	6
09-13-2004	Petition Decision	PROSECUTION	1
09-13-2004	Bibliographic Data Sheet	PROSECUTION	1
07-22-2004	Petition Entered	PROSECUTION	3
07-22-2004	Amendment After Final	PROSECUTION	1
07-22-2004	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	6
07-22-2004	Appendix to the Specification	PROSECUTION	11
07-22-2004	Notice of Appeal Filed	PROSECUTION	2
07-22-2004	Extension of Time	PROSECUTION	2
05-20-2004	Information Disclosure Statement (IDS) Filed	PROSECUTION	3
05-20-2004	Foreign Reference	PRIOR ART	64
05-20-2004	NPL Documents	PRIOR ART	1
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01-20-2004	List of references cited by examiner	PRIOR ART	1
01-20-2004	NPL Documents	PRIOR ART	3
01-20-2004	List of References cited by applicant and considered by examiner	PRIOR ART	1
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01-20-2004	Search information including classification, databases and other search related notes	PROSECUTION	1
10-10-2003	Amendment - After Non-Final Rejection	PROSECUTION	2
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10-10-2003	Drawings	PROSECUTION	1
10-10-2003	Drawings	PROSECUTION	6
10-10-2003	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	11
10-10-2003	Extension of Time	PROSECUTION	2

10-10-2003	Information Disclosure Statement (IDS) Filed	PROSECUTION	3
10-10-2003	NPL Documents	PRIOR ART	10
10-10-2003	NPL Documents	PRIOR ART	5
10-10-2003	NPL Documents	PRIOR ART	3
10-10-2003	NPL Documents	PRIOR ART	7
07-21-2003	Power of Attorney (may include Associate POA)	PROSECUTION	1
04-09-2003	Non-Final Rejection	PROSECUTION	7
04-09-2003	Notice of Formal Drawings Required	PROSECUTION	3
04-09-2003	List of References cited by applicant and considered by examiner	PRIOR ART	5
02-10-2003	Amendment - After Non-Final Rejection	PROSECUTION	1
02-10-2003	Information Disclosure Statement (IDS) Filed	PROSECUTION	2
02-10-2003	Foreign Reference	PRIOR ART	12
01-09-2003	Requirement for Restriction/Election	PROSECUTION	6
05-02-2002	CRF Sequence Listing Filed	PROSECUTION	6
04-16-2002	CRF Sequence Listing Filed	PROSECUTION	7
04-16-2002	Sequence Listing	PROSECUTION	14
03-12-2002	Miscellaneous Action with SSP	PROSECUTION	4
01-24-2002	Miscellaneous Incoming Letter	PROSECUTION	3
01-24-2002	CRF Sequence Listing Filed	PROSECUTION	2
01-24-2002	Sequence Listing	PROSECUTION	13
01-24-2002	Extension of Time	PROSECUTION	1
08-27-2001	Miscellaneous Action with SSP	PROSECUTION	3
03-12-2001	Information Disclosure Statement (IDS) Filed	PRIOR ART	2
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03-12-2001	NPL Documents	PRIOR ART	4
01-08-2001	Foreign Reference	PRIOR ART	101
01-08-2001	NPL Documents	PRIOR ART	6
01-08-2001	NPL Documents	PRIOR ART	9
01-08-2001	NPL Documents	PRIOR ART	4
01-08-2001	Information Disclosure Statement (IDS) Filed	PROSECUTION	2
01-08-2001	Foreign Reference	PRIOR ART	37
01-08-2001	Foreign Reference	PRIOR ART	83

01-08-2001	Foreign Reference	PRIOR ART	69
01-08-2001	Foreign Reference	PRIOR ART	35
01-08-2001	Foreign Reference	PRIOR ART	58
01-08-2001	Foreign Reference	PRIOR ART	33
01-08-2001	Foreign Reference	PRIOR ART	31
01-08-2001	Foreign Reference	PRIOR ART	31
01-08-2001	NPL Documents	PRIOR ART	2
01-08-2001	NPL Documents	PRIOR ART	9
01-08-2001	NPL Documents	PRIOR ART	5
11-27-2000	Miscellaneous Incoming Letter	PROSECUTION	3
11-27-2000	Oath or Declaration filed	PROSECUTION	5
11-27-2000	Extension of Time	PROSECUTION	2
08-21-2000	Miscellaneous Action with SSP	PROSECUTION	1
07-07-2000	CRF Sequence Listing Filed	PROSECUTION	6
06-23-2000	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1
06-23-2000	Search information including classification, databases and other search related notes	PROSECUTION	1
06-23-2000	Index of Claims	PROSECUTION	1
06-23-2000	Transmittal letter	PROSECUTION	2
06-23-2000	Drawings	PROSECUTION	16
06-23-2000	Specification	PROSECUTION	43
06-23-2000	Claims	PROSECUTION	10
06-23-2000	Abstract	PROSECUTION	1
06-23-2000	Oath or Declaration filed	PROSECUTION	4
06-23-2000	Fee Worksheet (PTO-875)	PROSECUTION	1
06-23-2000	Fee Worksheet (PTO-875)	PROSECUTION	1
06-23-2000	Claims Worksheet (PTO-2022)	PROSECUTION	1
06-23-2000	CRF Sequence Listing Filed	PROSECUTION	2
06-23-2000	Sequence Listing	PROSECUTION	13
06-23-2000	Miscellaneous Incoming Letter	AS FILED	91

[Close Window](#)

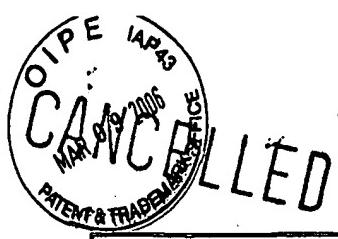


Exhibit 3

PATENT
ATTORNEY DOCKET NO. 50111/002002

Certificate of Mailing: Date of Deposit: March 6, 2006

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Christine E. Fort

Printed name of person mailing correspondence

Christine E. Fort

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Neil R. Cashman et al. Art Unit: 1648

Serial No.: 09/602,775 Examiner: Ulrike Winkler

Filed: June 23, 2000 Customer No.: 21559

Title: ANTIBODIES TO A YYX EPITOPE OF A MAMMALIAN PRION PROTEIN (As Amended)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO NOTICE OF ALLOWANCE

In reply to the Notice of Allowance that was mailed in connection with the above-captioned application on December 7, 2005 and having confirmation number 9735, enclosed are:

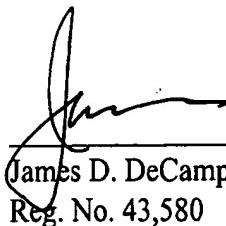
A completed fee transmittal form PTOL-85; and

A check for \$1430.00 to cover the issue fee required by 37 C.F.R. § 1.18(a) of \$1400.00, and the patent copy fee required by 37 C.F.R. § 1.19(a)(1)(i) of \$30.00 for ten patent copies.

If there are any other charges or any credits, please apply them to Deposit Account

No. 03-2095.

Respectfully submitted,



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